

IC 29-2

ARTICLE 2. MISCELLANEOUS PROVISIONS

IC 29-2-1

Chapter 1. Jurisdiction in Probate Matters and Probate of Foreign Wills

IC 29-2-1-1

Definitions

Sec. 1. As used in this chapter:

(1) "local administration" means administration by a personal representative appointed in this state pursuant to appointment proceedings described in article 1 of this title.

(2) "local personal representative" includes any personal representative appointed in this state pursuant to appointment proceedings described in article 1 of this title and excludes foreign personal representatives who acquire the power of a local personal representative under section 6.

(3) "resident creditor" means a person domiciled in, or doing business in this state, who is, or could be, a claimant against an estate of a non-resident decedent.

(4) "non-resident decedent" means a decedent not domiciled in Indiana at his death.

(5) "foreign personal representative" means a personal representative appointed in a jurisdiction other than Indiana to administer a non-resident decedent's estate.

(6) "domiciliary foreign personal representative" means a foreign personal representative appointed in the jurisdiction where the decedent was domiciled at the time of his death.

(Formerly: Acts 1881(ss), c.45, s.1; Acts 1975, P.L.288, SEC.39.)

IC 29-2-1-2

Indebtedness to non-resident decedent; payments to domiciliary foreign personal representative

Sec. 2. At any time after the expiration of forty-five (45) days from the death of a non-resident decedent, any person indebted to the estate of the non-resident decedent or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock or chose in action belonging to the estate of the non-resident decedent may pay the debt, deliver the personal property, or the instrument evidencing the debt, obligation, stock or chose in action, to the domiciliary foreign personal representative of the non-resident decedent upon being presented with proof of his appointment and an affidavit made by or on behalf of the representative stating:

(1) the date of the death of the non-resident decedent;

(2) that no local administration, or application or petition therefor, is pending in this state; and

(3) that the domiciliary foreign personal representative is entitled to payment or delivery.

(Formerly: Acts 1881(ss), c.45, s.15; Acts 1975, P.L.288, SEC.40.)

IC 29-2-1-3

Payments to domiciliary foreign personal representative; release of debtor

Sec. 3. Payment or delivery made in good faith on the basis of the proof of authority and affidavit releases the debtor or person having possession of the personal property to the same extent as if payment or delivery had been made to a local personal representative.

(Formerly: Acts 1881(ss), c.45, s.72; Acts 1975, P.L.288, SEC.41.)

IC 29-2-1-4

Payments to domiciliary foreign personal representative; notice by resident creditor to debtor as bar

Sec. 4. Payment of delivery under section 2 of this chapter may not be made if a resident creditor of the non-resident decedent has notified the debtor of the non-resident decedent or the person having possession of the personal property belonging to the non-resident decedent that the debt should not be paid nor the property delivered to the domiciliary foreign personal representative.

(Formerly: Acts 1881(ss), c.45, s.73; Acts 1975, P.L.288, SEC.42.)

IC 29-2-1-5

Domiciliary foreign personal representative; filing copies of appointment and bond

Sec. 5. If no local administration or application or petition therefor is pending in this state, a domiciliary foreign personal representative may file with a court in this state in a county in which property belonging to the decedent is located, authenticated copies of his appointment and of any official bond he has given.

(Formerly: Acts 1881(ss), c.45, s.74; Acts 1975, P.L.288, SEC.43.)

IC 29-2-1-6

Domiciliary foreign personal representative; powers

Sec. 6. A domiciliary foreign personal representative who has complied with section 5 may exercise as to assets in this state all powers of a local personal representative and may maintain actions and proceedings in this state subject to any conditions imposed upon non-resident parties generally.

(Formerly: Acts 1881(ss), c.45, s.138; Acts 1959, c.246, s.1; Acts 1971, P.L.414, SEC.1; Acts 1975, P.L.288, SEC.44.)

IC 29-2-1-7

Domiciliary foreign personal representative; limitation of powers by local personal representative

Sec. 7. The powers of a domiciliary foreign personal representative under section 2 or 6 of this chapter shall be exercised only if there is no administration or application therefor pending in this state. An application or petition for local administration of the estate terminates the power of the foreign personal representative to act under section 6 of this chapter, but the local court may allow the foreign personal representative to exercise limited powers to preserve

the estate. No person who, before receiving actual notice of a pending local administration, has changed his position in reliance upon the powers of a foreign personal representative shall be prejudiced by reason of the application or petition for, or grant of, local administration. The local personal representative is subject to all duties and obligations which have accrued by virtue of the exercise of the powers by the foreign personal representative and may be substituted for him in any action or proceedings in the state. *(Formerly: Acts 1881(ss), c.45, s.139; Acts 1971, P.L.414, SEC.2; Acts 1975, P.L.288, SEC.45.)*

IC 29-2-1-8

Non-resident decedents; proceedings; application of law

Sec. 8. In respect to a non-resident decedent, the provisions of article 1 of this title govern (a) proceedings, if any, in a court of this state for probate of the will, appointment, removal, supervision, and discharge of the local personal representative, and any other order concerning the estate; and (b) the status, powers, duties and liabilities of any local personal representative and the rights of claimants, purchasers, distributees and others in regard to a local administration. *(Formerly: Acts 1881(ss), c.45, s.140; Acts 1971, P.L.414, SEC.3; Acts 1975, P.L.288, SEC.46.)*

IC 29-2-1-9

Foreign personal representative; submission to jurisdiction of state court

Sec. 9. A foreign personal representative submits himself to the jurisdiction of the courts of this state by (a) filing authenticated copies of his appointment as provided in section 5 of this chapter, (b) receiving payment of money or taking delivery of personal property under section 2 of this chapter, or (c) doing any act as a personal representative in this state which would have given the state jurisdiction over him as an individual. Jurisdiction under (b) is limited to the money or value of personal property collected. *(Formerly: Acts 1975, P.L.288, SEC.47.)*

IC 29-2-1-10

Foreign personal representative; subjection to decedent jurisdiction

Sec. 10. In addition to jurisdiction conferred by section 9 of this chapter, a foreign personal representative is subject to the jurisdiction of the courts of this state to the same extent that his decedent was subject to jurisdiction immediately prior to death. *(Formerly: Acts 1975, P.L.288, SEC.48.)*

IC 29-2-1-11

Service of process on foreign personal representative

Sec. 11. (a) Service of process may be made upon the foreign personal representative by registered or certified mail, addressed to his last reasonably ascertainable address, requesting a return receipt

signed by addressee only. Notice by ordinary first class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of this state on either the foreign personal representative or his decedent immediately prior to death.

(b) If service is made upon a foreign personal representative as provided in subsection (a) of this section, he shall be allowed at least thirty (30) days within which to appear or respond.

(Formerly: Acts 1975, P.L.288, SEC.49.)

IC 29-2-1-12

Adjudications binding on personal representative

Sec. 12. An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate is as binding on the local personal representative as if he were a party to the adjudication.

(Formerly: Acts 1975, P.L.288, SEC.50.)